

**STATE OF CONNECTICUT**  
**BOARD OF EXAMINERS FOR NURSING**

Department of Public Health

Petition No. 2005-0916-011-035

vs.

Heather Babis, LPN, Lic. No. 030906  
Respondent

**MEMORANDUM OF DECISION**

***Procedural Background***

The Board of Examiners for Nursing (hereinafter "the Board") was presented by the Department of Public Health (hereinafter "the Department") with a Statement of Charges and Motion for Summary Suspension dated November 4, 2005. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Heather Babis (hereinafter "respondent") which would subject respondent's licensed practical nurse license to disciplinary action pursuant to *Conn. Gen. Stat.* §§ 19a-17 and 20-99(b). Dept. Exh. 1.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that respondent's continued nursing practice presented a clear and immediate danger to public health and safety. On November 16, 2005, the Board ordered, pursuant to its authority under § 4-182(c) and § 19a-17(c) of the General Statutes of Connecticut, that respondent's licensed practical nurse license be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges.

The Board issued a Notice of Hearing dated November 16, 2005, scheduling a hearing for December 7, 2005. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. The Summary Suspension Order, Notice of Hearing, and Statement of Charges were delivered by State Marshal to known addresses of respondent. Dept. Exhs. 2, 3.

The hearing took place on December 7, 2005, in Room 1-D, Legislative Office Building, Capitol Avenue, Hartford, Connecticut. Respondent was present during the hearing but was not represented by counsel. Transcript, December 7, 2005, p. 2.

Respondent submitted an oral Answer to the Statement of Charges. Transcript, December 7, 2005, pp. 5-7.

The board scheduled a second hearing date for December 21, 2005 to allow respondent to submit exhibits in her defense. Transcript, December 7, 2005, pp.35-36; Board Exh. 1.

The second day of hearing took place on December 21, 2005, in Room 1-D, Legislative Office Building, Capitol Avenue, Hartford, Connecticut. Respondent was not present during the hearing and was not represented by counsel. Transcript, December 21, 2005, pp. 2-4.

During the hearing on December 7, 2005, the Department moved to amend paragraph three of the Statement of Charges to reflect that the respondent is a licensed practical nurse and not a registered nurse. The Board granted the motion. Transcript, December 7, 2005, p. 11.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

### *Findings of Fact*

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Respondent was issued licensed practical nurse license number 030906 in December 2004. Respondent was the holder of said license at all times referenced in the Statement of Charges. Transcript, December 7, 2005, p. 5.
2. Respondent was employed as a licensed practical nurse at Carolton Convalescent Home, Fairfield, Connecticut. Transcript, December 7, 2005, p. 6.
3. During 2005, while working as a licensed practical nurse at Carolton Convalescent Home, respondent diverted the controlled substances Vicodin, hydrocodone and oxycodone. In a sworn statement to agents of the Department of Consumer Protection, Drug Control Division, dated August 29, 2005, respondent admitted to diverting Vicodin tablets and oxycodone for her own use due to chronic back pain. Respondent further admitted in her statement that her addiction to medication became apparent when she would feel ill when her prescription ran out. Dept. Exh. 5 pp. A8-A9; Transcript, December 7, 2005, p. 6.
4. During 2005, while working as a licensed practical nurse at Carolton Convalescent Home, respondent failed to completely, properly and/or accurately document medical or hospital records and falsified one or more Controlled Substance Receipt Records. Dept. Exh. 5; Transcript, December 7, 2005, p. 7.
5. During the time period September 20, 2005 through October 5, 2005, respondent worked as a licensed practical nurse at Darien Health Care, Darien, Connecticut. On or about October 5, 2005 it was discovered that 60 tablets of Percocet, delivered to Darien Health Care on September 20, 2005, were missing. Nursing personnel at Darien Health Care noted that respondent appeared to be impaired while working. Dept. Exh. 6, pp. 3-4.
6. On or about December 12, 2005 respondent was involved in a motor vehicle accident in Monroe, Connecticut. Respondent was arrested for operating a motor vehicle while under the influence of drugs and/or alcohol after failing a field sobriety test. Dept. Exh. 6, pp. 17-32.

### *Conclusions of Law and Discussion*

In consideration of the above Findings of Fact, the following conclusions are rendered:

Heather Babis held a valid licensed practical nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Summary Suspension Order, Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by *Conn. Gen. Stat.* §§ 4-177(a) and (b), and 4-182(c). The hearing was held in accordance with *Conn. Gen. Stat.* Chapters 54 and 368a as well as §§ 19a-9-1 through 19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges, and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of his license as required by *Conn. Gen. Stat.* § 4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

**PARAGRAPH 3** of the Statement of Charges alleges that during 2005, while working as a licensed practical nurse at Carolton Convalescent Home, respondent:

- a. diverted hydrocodone, vicoden (sic) and oxycodone from patient stock for her own personal use;
- b. failed to completely, properly and/or accurately document medical or hospital records; and/or,
- c. falsified one or more Controlled Substance Receipt Records.

As to paragraph 3a, Respondent admits to diverting medications from Carolton Convalescent Home but denies they were for her own personal use. Respondent neither admits nor denies the allegation in paragraph 3b and admits paragraph 3c. Transcript, December 7, 2005, p. 6-7.

**PARAGRAPH 4** of the Statement of Charges alleges that during 2005, respondent abused or utilized to excess hydrocodone, vicoden (sic) and oxycodone.

**PARAGRAPH 5** of the Statement of Charges alleges that respondent's abuse of hydrocodone, vicoden (sic) and oxycodone, does, and/or may, affect her practice as a licensed nurse.

Respondent denies the allegations in paragraphs 4 and 5. Transcript, December 7, 2005, p. 7.

Respondent during her testimony claims that she does not have a chemical dependency and that the medications she diverted were for her brother, who suffers from a drug dependency. Respondent further claims that she admitted to the drug control agents that she diverted drugs for her own use so as to protect her brother from getting in trouble. The Board does not find respondent's testimony to be credible.

The Board finds that respondent abused the controlled substances that she diverted from Carolton Convalescent Home, and that she accomplished the diversion by falsifying and/or improperly documenting medical and/or Controlled Substance Receipt Records. The Board further finds that respondent's abuse of hydrocodone, Vicodin and oxycodone may affect her practice as a nurse.

The General Statutes of Connecticut § 20-99 provides in relevant part:

(a) The Board of Examiners for Nursing shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the nursing profession brought against persons licensed to practice nursing. After holding a hearing . . . said board, if it finds such person to be guilty, may revoke or suspend his or her license or take any of the actions set forth in section 19a-17. . . .

(b) Conduct which fails to conform to the accepted standards of the nursing profession includes, but is not limited to, the following: . . . 2) illegal conduct, incompetence or negligence in carrying out usual nursing functions . . . (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals . . .

Based on its findings, the Board concludes that respondent's conduct as alleged in Paragraphs 3, 4, and 5 of the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §§ 20-99(b) (2), (5) and 19a-17.

#### *Order*

Pursuant to its authority under *Conn. Gen. Stat.* §§ 19a-17 and 20-99, the Board of Examiners for Nursing hereby orders the following:

That for Paragraphs 3, 4 and 5 of the Statement of Charges, respondent's licensed practical nurse license number 030906, is revoked effective the date this Memorandum of Decision is signed by the Board.

The Board of Examiners for Nursing hereby informs respondent, Heather Babis, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 7<sup>th</sup> day of June 2006.

BOARD OF EXAMINERS FOR NURSING

By 